

3.
Animadversions
ON A
DISCOURSE
OF
GOD'S WAYS
OF
DISPOSING
OF
KINGDOMS.



L O N D O N,
Printed for *W. Rayner*, 1691.

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LONDON

Printed for W. Roper, 1732.

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O N

A Discourse of God's Ways of Disposing of Kingdoms.

NEXT to the Treachery of Men, who have not had that jealousy of themselves which the Right Reverend and Learned Author of the late Discourse makes a Vertue in his *Brethren*, who have renounced the Benefit of that Protection which this Government has extended towards them; nothing has more promoted the Interest of him, who, as some Great Men insinuate, still remains our *Rightful King*, than an obstinate Justification of all the Follies and Flatteries of some Clergy-men, at a time, when in their Tantivy speed to Preferments, they not only trampled upon the poor Persecuted Dissenters; but upon those Laws, which forbid their making Riots of Religious Meetings, and Statutes of Royal Edicts, or Proclamations.

Rather than it should be thought that they, who call themselves the Church of *England* were to blame in these Matters, and held Erroneous Opinions of Civil Power; this Government, which is a reverse to their Doctrines, shall be maintained to be an Usurpation, either upon King *James*, or upon the People of *England*; who invited their

Vid. Pref. Seem to be too jealous of themselves, for fear some worldly Considerations, &c.

Deliverer, and made the most suitable Acknowledgment of such a *Deliverance*.

It is a Melancholly Consideration to think, how many are imposed upon, by Doctrines made for no Lay-end whatever; and which will serve no Government, but what is against or above Law: if there come in such consent of Men, as the Learned and Judicious Mr. Hooker thought absolutely necessary for the making of Laws; this consent either must lose the nature of consent, or want Authority: for fear some *Clergymen* should be condemn'd for having ascribed to Princes those Powers which were never given or allowed by the consent of the Nation: and if one who exercised such an Illegal Power, be *Dispossessed against his will*; Allegiance must be transferred to another, still without Humane Consent; for otherwise Passive Obedience to no Law, could not revive again, and be transplanted.

Nor could those Divines, whose Doctrines encouraged the late King to attempt what occasioned his *Abdication*, have expected to make Atonement by the Difficulties which they and their Partizans might bring upon the Successor; and yet hope to impose upon him, as if they were the only *Loyal Men*.

If they were as *Passive* themselves, when their Loyalty comes to be tried, as they would have others be, it were something; but they who take to themselves all the Priviledges belonging to *Gods Lot*, or *Peculiar Inheritance*, are like the Men of *Kent*; who having opposed *William I.* after the rest of the Nation had submitted to him, would have it, that all but themselves were a conquered People.

Vid. Camd. Brit. Parker's Anrig. Brit. Dicit Cantuarii Comitatus quod in ipso Co-

mitatu de jure debet de ejusmodi gravamine esse liber, quia dicit quod Comitatus ille, ut residuum Angliae, nunquam fuit Conquestus.

No respect to any Man's Person or Character, ought to come in Competition with the Duty which we owe
our

our Country : on the contrary, while the Errors of Men, Great for Name of Learning, or Pomp of Office, derive Authority from their Persons ; those Errors or Artifices, which tend to the Prejudice of the most valuable Interest of Men, as united in Societies ; ought to be treated with the greater Freedom, and with that Contempt or Laughter, which is due to the Folly, or the Disguise.

That the World may judge of the Merits of those Notions, which are vented under the Venerable Authority of the *L — A —* and, as it should be thought, with such a charitable Design, as becomes that Office. I shall,

1. As far as they are consistent, and hang together, give a true Representation of them, with their plain and direct Consequences.

2. Shall shew their Inconsistencies.

3. Their Doubtfulness and Ambiguity ; as if intended to serve either Prince or People, and to impose upon both.

4. The Weakness of the Reasoning, want of Authority, and gross Mistakes, in relation to those Rights of Princes, which he would infer from Passages, or Omissions, Sacred or other Writings.

5. That the shew of Reading, and the Positions are wholly beside the Cushion ; not applicable to the Constitution of this Government, nor to the present Debate.

1. The manifest Scope of the Book, is to prove, or rather to maintain, by the Authority of the Person, without Proof, that all Kingdoms are disposed by Gods immediate Act, without the allowable Interposition of any, but *Sovereign* Princes, and that the Acts of all others have an *original Nullity*.

*A Representation
of the Do-
ctrine.*

P. 30.

P. 32.

Upon which I may make this general Reflection, to justify my Anti-Title. If Acts proceeding from the Free Wills of Sovereign Princes, are no Objections against Gods.

Gods Disposal of Kingdoms so far by his immediate Act, as that himself confers the Power by his sole Authority; neither would what proceeds, warrantably, from the Free Will of the People, be less Gods Act, or have his Authority less immediately from his Gift. But how much soever God Almighty influences Mankind in the Choise of their Actions, we must suppose that they act with Freedom, even in the Changes of Kingdoms and States; or otherwise we must impute to the Almighty those Crimes, by which Changes are sometimes brought about: which to surmise, were *Blasphemy*. And if Changes are made according to natural Equity, and more especially the known Rights of any Kingdom, agreeable to that Equity, and allowed of, and exercised as there has been occasion in all times, from the first Erection of the Kingdom; we may well say, that those Acts of such a free People, which God permits, and blesses with Success, are by, and with, his Authority.

What, are the Rights and lawful Powers entrusted by God Almighty with the People of this Land, for the Preservation of *their ancient* *Christian Sub-* *jection.* *Regiment, and Laws,* it is not needful here to prove: but it is necessary to shew, in their proper Colours, those Arts, or in Truth, Weaknesses of Clergy-men, whereby they would bring in God Almighty to Authorize the Contrariety of their avowed Principles to the Right of this Government; and of their Actions to any Principles, but such as may free them from Slavery to their Promises or Oaths; and at the same time might enslave all others: as if their Freedom were purchased at this Price, and were the Reward of such Merits.

I cannot but use this Book of one of so settled a Reputation for learning, as a Demonstration, that it is necessary for their own Sakes, as well as for the Good of Mankind, that Clergy-men should not, in these Matters, *be wise beyond*

beyond what is written in our Law: If I am thought to expose the Nakedness of a Spiritual Father, I doubt not, but it will be pardonable, if not meritorious, when it is to preserve the *Chastity* and *Freedom* of our common Parent.

The Subject of the Book being of the Disposal of Kingdoms, and conferring of Power, the Measures of Power, or manner of enjoying it, might seem not to fall within the Question; and yet it will appear that here lies the Hinge of the Controversie: for if the Government of England be in King, Lords, and Commons; then, whatever Difference there be in the *Modus habendi potestatem*, "the manner in which the Sovereignty, or absolute Power, where by the Nation is governed, is enjoyed; the King may, as *Grotius* has it, *in partem non suam involare*, "seize upon, or usurp that part of the Sovereignty which does not belong to him: or to speak strictly (as the Sovereignty is indivisible, though enjoyed by several) he may take to himself alone, what the laws have communicated to him and to others.

And there would be no manner of Consequence, that a Conquest over the King, should, *ipso facto*, transfer the Dominion to the Conqueror, so far as to make the Subjects (a) *Slaves*, unless they obtain Conditions from the Conqueror, which is maintain'd in this Book.

(a) P. 20. In giving one Prince a Conquest over another, he thereby puts one in Possession of the others Dominions, he makes the others Subjects become his Subjects, or his Slaves, as they come in upon Conditions, or at the Will of the Conqueror.

And whereas the learned Author pretends that he has sufficiently provided against the Charge of (b) *Novelty*, by the Number of Authorities (to no purpose, as I shall shew) I challenge him to bring one Author of clear Credit, who holds any thing like this.

I take

Grot. de Jure belli,
P. 503.

Potest autem Imperium victori acquiri vel tantum ut est in rege aut alio imperante & tunc in ejus duntaxat jus succeditur non ultra, vel etiam ut in populo est, &c.

I take *Grotius* to have given a much safer Rule in this, and yet to have gone to the utmost Stretch, when he says, "Dominion may be acquir'd by a Conqueror, either only so much as is in the King or other Ruler; and then he succeeds only to his Right, and no farther: or also so much as is in the People."

All the Right of the People *Grotius* supposes not to be acquired meerly by a Victory over the Prince; where the Prince had not the Sovereignty absolutely and solely in him: and that in such Case the Conqueror succeeds only to that Right which the other had: that is, to a Government according to the Laws of that Country. But our

P. 49. 50. Reverend Author is express, *That though the Prince that is disseized was obliged by that Law while he was in Possession, it never was a Law to the Prince that is now in his Place.*

And thus by the Conquest of a Prince, limited by Laws, according to him, the Conqueror would not only acquire all the Power which the Law gave the other; but would be let into a Power by Gods Gift, without any legal Limits.

But this Supposition, as it is wholly precarious, is very absurd, in any Government where the Sovereignty is communicated to more than one.

And how it is in *England*, next to the Determination of our Law-makers, who are the Judges ordained by God, recourse ought to be had to Men, whose Profession it is, to be acquainted with the Laws and History of the Government; but the *Divine* thinks himself insignificant, if he cannot, like the Pope of *Rome*, hook in Civil Power, and the Decision of its Rights, in *Ordine ad Spiritualia*; and therefore some Rule must be found out, common to all Sovereign Princes or Kings, as such; and that Rule must be one of which Divines may be allowed to be the most competent Judges, or Interpreters. Where-

Whereas, therefore this Author resolves all Gods ways of conferring Power. 1. Into the Right of the First Parents, called Patriarchial. 2. Conquest. 3. God's Nomination. 4. Consent of the People.

1. He makes those Rights, which belong to one who was King by Divine Nomination, equally to belong to all of them. For, says he,

P. 3. *David, as being a Prophet inspired, best knew the Mind of God, and his ways of dealing with Mankind. And David, as being called to be a King, by the immediate Designation of God, best knew what belonged to that Dignity. His word therefore is on all accounts a sufficient Proof.*

He is indeed there speaking of the Exaltation to Power, but either the Exaltation is all that belongs to the Power, and then there is only a Name without Power till Man has consented; or else by what belongs to the Dignity, he means all its Rights, or the Rights of Sovereignty. Whatever therefore was a Right of Sovereignty in David, is according to him the Right of all Kings, as such; because David was a King by the immediate designation of God. P. 4.

And therefore where one who is called King has not such a Right of Sovereignty, as he supposes to be common to all Kings, he will have the Government to be properly a Commonwealth. P. 18, 19.

Wherein he has thought fit to explain the mystery, how it came to pass that all who hold Their present Majesties Right to this Government, after the Declaration of the States of the Kingdom, upon the late King's breach of the Original Contract, and Abdication; are run down as Republicans, and Enemies to the Monarchy; though they are the only Men who would preserve it to Their present Majesties.

And it is not an unpleasant story, for the truth of which I will not vouch; That when a Man was recommended to a Place of very great Trust, though he had

B been

been a constant Companion of them who Caball'd against their Majesties; this being objected, his Patron should say, *O Sir! he is a Friend to the Monarchy.*

2. As with this High Monarchical Author, the Rights of all Sovereign Princes and Kings, as such, are equal; he is not shy of letting the World know what Their

Right is; and that it is a Right to make the
 P. 20. Subjects *Slaves*: or in other words of his own,
 P. 64. *to do with them and theirs what they please.*

For that he tells us is the *Right of War*, or of a Conqueror; and all Kings have the same Right, or else what *David* shews *to have belonged to the Dignity*, would not be a Rule to this day.

3. One would think that the consent of Men who are at liberty to dissent, proceeds from their Choice; and that they who chuse one to reign over them who had no Right

before that Choice, give him the Kingdom; and
 P. 11. that this (as himself calls it) is *the Act of Man*,
 P. 11. and *merely an Human Act.*

But if this were only an *Human Act*, then the Government would be founded in *Contract*, if it was not given in an absolute manner; and the King that was chosen might be no other sort of Sovereign than Humane Laws made him. Wherefore it is necessary that this *meer Humane Act* should not be a *meer Humane Act*, but should be spiritualiz'd to come within Ecclesiastical Jurisdiction; and that the Authority should be immediately from God only; and become such an Authority as he gives a King of his own Nomination, or one to whom he has given the Kingdom, in way of Judgment, upon an Appeal to him, and Tryal by Battle.

To get clear of the troublesome Objection here, you must understand, that there are but two grounds for their Election: 1. Real Merit in the Person chosen. 2. Favour towards him. Where there is Real Merit, *they*
 P. 13. *could not go beside him in their Choice, they took him as one already chosen of God.* As

As to Favour, whereby they prefer one before others of as much Merit, *it is the same* P. 14.
great God who rules the roaring of the Sea, and the multitude of the People.

But if the Translators of the Bible were as well skill'd in the *Hebrew*, and rightly rendred it *tumult or madness of the people*; the most tumultuous, irregular and undue Election, would by this be ascrib'd to God as his immediate act. Psal. 65. 7.

But whether the Choice were regular or irregular, they it seems were not free to chuse, or not to chuse.

And as the Poet has it——

*Thus like a Pris'ner in an Isle confin'd,
 Man walks at large, a Pris'ner in his mind;
 Wills all his Faults, while Heav'n th' Indictment draws,
 And pleading Guilty, justifies the Laws.* Dryden.

And according to our B——, where Men thought they exercis'd a Free Faculty given them by God; the Man of Merit took their Subjection as his Right, because God had mark'd him out as their King; which would warrant the Usurpations of any Man, who could flatter himself into a persuasion that he merited to be a King.

But where they chose without Merit, it seems it was a Choice without liberty to dissent, and consequently tho' this Choice were a sinful act, as sometimes it might be; yet he who makes God the Author of the Choice by his immediate Act, makes him the Author of the Sin. (a)

But as the Choice of the People is made no Choice; very little room is left by this Author even for that no Choice. For,

1. Where a Kingdom is Hereditary, there the Ancestors consented once for all following Generations; and then though the Heir who Claims by P. 16.

(a) Ref. Elem. Jurisprud. i. Def. 1. *Actiones humane dicuntur actiones hominis voluntariae, cum imputatione effectuum.*

Descent from the first Monarch, should be a natural Fool or Mad-man; God

(a) P. 16. *For the Derivation of that Right to their Persons, they owe it only to God; for it comes to them by their Birth, and they owe their Birth only to God.*

(b) Pag. 15. Sect. 26.

(c) Pag. 19. *This (says he) can be understood of nothing else but the Conquest of one Prince over another. This which seems there to be only a Conquest over the Prince, he soon advances to a Conquest over the Nation; For thereby (he says) God makes the others Subjects become his Subjects or Slaves, accordingly as they come in, &c. God's putting down one being here extendable to all cases of removals, even by Death, or cession, he, Pag. 49. finds it needful to insinuate as if he had proved in Sect. 26. only That Conquest is the way by which a Kingdom is taken from a Sovereign Prince against his will.*

(d) Pag. 11.

(e) Pag. 20. *He makes the others Subjects become his Subjects or Slaves, accordingly as they come in upon Conditions or without.*

imitations upon a Prince who by a Right given of God ought to be Absolute: and extort by force a Promise, perhaps,

has given him the Kingdom for a perpetual Inheritance: and all the acts of the People alone, to set him aside before his actual Possession, are a *meer nullity*: they can acquire no right against that which God alone has given the Prince, by reason of his (a) Birth.

2. As the Succession is continued to the Heir of the Family, (b) *without other Human Act* than the first consent; if the Crown be taken from the Heir of the Family, and another comes to enjoy it, 'tis God who (c) *puts down one, and sets up another*; and in all cases where God does this, it is by Conquest, and can be no otherwise understood. And in the case of Conquest, no consent of the People is required, but [thereby] God puts one in possession of the other's Dominions, before the People express any consent to receive him for their Prince: and tho' the Conqueror should condescend to make them his Subjects, they are his Slaves by right of War. Should they capitulate with their Swords in their Hands, while the Event of a War which they might threaten, were doubtful; Yet God has given them up for (e) Slaves, they have no Right to capitulate, but in their very capitulating, resist God's Ordinance, while they would put Limitations upon a Prince who by a Right given of God ought to be Absolute: and extort by force a Promise,

But the Sufferings of the People of other Nations, are then only to be relieved by a *Foreign Prince*; when he has a particular Interest, or Cause of his own, and receives immediate Prejudice thereby, or fears that he may.

Indeed, when *it is necessary to do this for themselves*; then *they ought to do it much the rather for the Sakes of their oppressed Brethren*: P. 47. As it is necessary, &c. Jo.

no sufficient Cause, it seems, is to be found in that common Relation between Mankind, upon which alone, *Grotius* and others, would justify the *Heroes* of Past Ages; who have undertaken the Deliverance of oppressed Nations, meerly for the Sake of common Humanity, and as they were fit Objects of their Compassion.

Grotius, de Jure Belli & pacis, lib. 2. c. 25. Sect. 6. Postrema, latissimeque patens est hominum inter se conjunctio, quæ vel sola ad opem ferendam sufficit.

They who confine *Deliverers* to selfish Ends, seem to envy them their greatest Glory; or to have been so sordid themselves, as to have had no Idea of this Vertue: and like *Mr. Hobbs*, to draw a Scheme of Humane Nature from too solitary a Dwelling at Home.

Whatever Latitude was given to warrant the Expeditions of *Sovereigns*, here they are confined: because perhaps some could not imagine that they should take Pleasure in what is so disinterested. But for *Subjects*, how much soever oppressed, they *have no Right to make War without Leave of their Prince*. P. 32. None Ibid. *have Right of making War*, but *they that are in Sovereign Power*. Whoever, it seems, is in *Sovereign Power*, though he be not the *Supream*, or *Chief* in Power, he is no Subject: and you may be sure the Prince will never give his Subjects leave to make War against himself.

It must therefore be some *Foreign Sovereign Prince*, who makes War against the oppressing Prince; otherwise the War is not only unjust, but *no Right* can be acquired by Success: *there is an original Nullity in all the Proceedings*. P. 32.

Very

Very good! But let us now apply this to our present Case, that we may come out of the Clouds. To make the *Discourse pertinent*, it must be admitted, that a War was made upon the late King, while he continued King, and that he was *dispossessed against his Will*.

Here I would ask this serious Question : Is not our *Deliverance*, and the Settlement of the Crown occasioned thereby, not only condemned, but rendered a meer *Nullity*, by the plain Consequence of this Doctrine, insinuated as the Doctrine of the Church of England?

Vid. Pref. No other Doctrine than that which has been received and past for current in the Church of England, ever since the Reformation,

All must agree, that *King William*, while he was but *Prince of Orange*, and *Stadholder of Holland*, was invited over by many of the Nobility, Gentry, and Clergy of this Land; that his Arms were joyned by Men of all Orders, immediately upon his Landing; that he was, upon the late King's Withdrawing, petitioned to accept the Administration of the Government, and after that, freely chosen, together with his Princess, to supply the vacant Throne: without any Force offered by him to the late King, or the People; much less setting up for himself, and compelling them to declare him King.

This I take to be the true State of the Question; but if we suppose such a State of it, as may make the B——s Discourse consistent, and to purpose, it must be admitted.

1. That all they who invited the Prince to assist them, departed from the Doctrine of the Church of England.

2. That however, he having had Success, *thereby* immediately became *rightful King*: and that all who were for the Regency, or opposed his being King, equally departed from the Doctrine of the Church of England.

But upon the true State of the Case, there may naturally arise these two Questions, not here to mention more.

1. Whe-

1. Whether, if King *James* were conquered, *Vid. P. 49.* it was by the then *Prince of Orange*, or by the People of *England*? and whether the Prince, or the People, took the *Dominion* from the late King, against his Will?

2. Whether the *Deliverance*, in which his present Majesty was so gloriously instrumental, was, according to this *Discourse*, by a Sovereign Prince? That our King was not a Sovereign Prince, barely as *Stadholder* of *Holland*, must be granted; and then as to the Principallity of *Orange*, even according to this Book, though the Cause of War between the *French King* and the *States*, or their *Stadholder*, were unjust on that King's side; yet it was not only lawful, but a Duty for the Subjects of that Principality, to obey the *French King*: Nay, the Government is so far settled in that King, that we are to presume a Right; for, says he, *Wheresoever this is once settled, whether by length of time, or even sooner, by general Consent of the People; there it ought to be presumed there is a Right, at least there ought to be no farther Dispute of it.* P. 57. P. 51.

But the Principallity of *Orange* is now settled in the *French King*, by a general Consent of the harassed People: his Right to it therefore is not to be disputed.

Farther yet, if that Principallity were feudatory to *France*; then by the Feudal Law it was subject to Forfeiture, for the Fault of the Owner: and then, according to the *Discourse*, he was no Sovereign Prince; for all Sovereign Princes, as they have their Authority from God, so they are only accountable to him. P. 19.

2. Perhaps it may be said, that my Questions here are not properly applied, they belonging to his Notion of *Conquest*; whereas our Case is not of a *Conquest*, but of an *Eviction* and a *Deliverance* thereupon: which leads me to his Inconsistencies. Inconsistencies.

But I must premise, that no Man can avoid his own Positive Assertions, by contradicting himself elsewhere, C espec-

especially by Contradictions to the very Ground-work and Foundation which he lays. The only way to Merit a Pardon of dangerous Positions, is ingenuously to retract them.

Besides, as he denies the Right of Conquest to any, but one who was a *Sovereign Prince* before; so he denies him the Right of a *Deliverer*, not allowing him to make War for a *Deliverance*. So that admit he were consistent throughout, yet my second question would deserve an answer.

But in truth it will appear, that either a *Deliverer* is one, who but calls, or suffers himself to be call'd a *Deliverer*, when he is a real *Conqueror*; or else his Notion herein is a direct Contradiction to his Fundamental Positions, and the manifest Drift of his Arguments; or rather Affirmations; for perhaps his Book is as improperly call'd a *Discourse*, as any that has come out a good while.

Page 66. If, says he, another *Prince*, having a just cause of War, is so far concerned for an oppressed People, as to take them into his care; and to declare that he makes War for their *Deliverance*: The Effect of this War, though we may call it a Conquest, because it has a Resemblance of it, yet it cannot be properly so in any respect, &c. As to the Prince on whom it is made, it is properly an Eviction, by

Page 67. the just Sentence of God, &c. As to the People, it cannot be a Conquest over them, who are so far from having the War made against them, that it was made chiefly for their Sakes. If there be any Pretence of a Conquest, it is only over them that were their Oppressors. But as for them that were oppressed, it makes all together on their side; so that they are the Conquerors in Effect, for they have the Benefit of it: And he that obtain'd this for them, hath a much more glorious Title than that of a Conqueror; for he is properly their Restorer and Deliverer. And elsewhere

Page 70. he says, Though one may Conquer and drive out an Oppressing Prince, he may have no Right of Conquest.

This

This seems very plausible, but either is a downright Contradiction to his Fundamental Position; or is none of the ways, in which, according to him, *God disposes* of a Kingdom, when he puts down one Prince and sets up another; for, according to him, in all cases where God does this; immediately upon the Conquest of the Prince, the Conqueror [*thereby,*] in vertue of that Conquest, is by God put into Possession of the *others Dominions*:

he makes the others Subjects become his Subjects, or Slaves; Accordingly, as *they come in*, or submit: and it is their Duty to *obey him* before he has their *Consent*.

V. sup. Discourse p 56, 57. No consent of the People, &c So p. 28.

Farther yet he says, *Conquest being the way by which a Kingdom or Dominion is taken from a Sovereign Prince against his Will; and by which another Prince gets into his Possession*: as often as this happens, there arises a question between the two Princes, whether of them hath a Right to the Kingdom or Dominion.

Vid. inf. p. 49.

This he will have to be decided by the *Law of Nations*, a Law common to both: for the Law of the Land, he holds that to be a Law to neither.

P. 30. That cannot be the Law of the Kingdom; for the Prince that is disseiz'd, was

oblig'd by that Law while he was in Possession; yet now it seems he is not; and it never was a Law to the Prince that is now in his place.

Where the People may take this for their Comfort, that if the Prince dispossessed or evicted, should be restored again; he will come back freed from all the Laws of the Country: Nor is the Prince, who Conquers him, a Restorer of those Laws, *eo nomine*, as he is a *Deliverer*; for whatever the Assurances might have been, to induce the People to assist him, or not to assist the other; they are his Slaves, till he has condescended to grant them Liberty upon their coming in, or submitting after he has conquered their Prince, or delivered them from his Person: but as to the Oppressions, what might have been an Ufur-

patron in their *Legal King*, would be but Right of War in a *Deliverer*. And thus if the *Restorer* or *Deliverer* dispossess the other, the *Deliverer* and *Conqueror* differ not, as to the Right which they acquire, or in Reality, but in name. The *Eviction* was by God's Sentence; the effect of which, he says, is a just Conquest.

And if he be consistent with himself, he must agree, that however the People please themselves with the sound of the word, the *Deliverer* may by right of War, do with them and theirs what he pleases: for this he makes the right of War in all cases, where a War is made upon their Prince for just cause; and the *Deliverer* is one whom he supposes to have had a just cause of War: but where the Justice of the War is certain, the Right of a Conquest he takes to be clear. And if we consider what he says, against a *Deliverer's* acquiring the Right of War, we may see that it is not with intent of opposing, if he insists upon that Right.

1. The People are the Conquerors in effect, because they have the Benefit of it; but if that Benefit is denied, they are not Conquerors in effect.

2. He says it has always been judged by the People of God, that such an one as he describes, is not properly a Conqueror: but mark his Proof, we have the Example of the Jewish Church in the time of Alexander the Great. I need not observe that this is a palpable Contradiction to

our B——'s Letter about Jaddus, * wherein he holds that the Jewish Church submitted to Alexander as coming in by Conquest. He gives other Examples of the like Nature in Cyrus and Constantine; but what he says of the last, runs through all, * though he had acquired a Title by the Expulsion of those Princes who had been Oppressors; and might have taken the Government upon him as a Conqueror; he did not. *is lawful to submit to a Prince that comes in by Conquest.* * P. 69.

But

Vid. The Letter to Dr. Sherlock about Jaddus, p. 28. This Story of Jaddus affords us a very good unquestionable instance of the Judgment of the Jewish Age; That it

But the Titles which all these *Deliverers* acquired, the Right which they might have us'd, was Conquest : and if they had thought fit to use the right of Conquest, according to himself, they were compleat Conquerors ; and if they lost that Right, it was only for their Lenity. An admirable Admonition to Princes to have a care of being too generous.

Two of these Princes were *Pagans* ; the third appears not to have been Christened when he set this Example : And yet because he held the (a) *First General Council*, and gave the Clergy Secular Power ; he, by receding from his Right, made a binding Law to restrain the Right of following Princes. Oh ! the strength and weight of the Argument. (a) P. 69.

3. What has been observed under the former Head, might be enough to shew the doubtfulness and ambiguity of the Discourse, as if intended to serve either Prince or People, and to impose upon both. But sometimes it is not unprofitable to shew the same Notions in different Lights.

The doubtfulness and ambiguity of the Discourse.

One who comes to the Possession of a Crown by Success in War over a Sovereign Prince, may think he has Right of Conquest ; for that is ascribed to all Princes whom God sets up, upon dispossessing another. But then

1. It is not enough to become a Prince by God's Gift of the Kingdom, but he must have been a *Sovereign Prince* before, or all is a nullity, God's Gift is void.

2. He must be sure not to suffer himself to be called a *Deliverer*, without Right of Conquest : for if he were such an one, he would not be a Prince of God's setting up ; and therefore as he would maintain his Title from God, he must assert the Right of a Conqueror.

3. But call him *Conqueror*, *Deliverer*, or what you please, the Discourse founds his Right, upon the Dominions being taken from one against his Will ; and another's coming into Possession.

If

If therefore both the one and the other be in some cases the Act of the People ; then he lays no Foundation for any Right of Conquest, but what will be an equal Right in all Conquests ; though the People be themselves the Conquerors over themselves.

P. 23. Farther yet he comforts Princes, That though they should be guilty of *Breach of Faith, not only to their People, but to God also*, yet they may not therefore be deposed by them. And yet he admits,

P. 66. *That the Laws are the Bond of Union between Prince and People*, and that by these the Prince holds his Prerogative.

But the Breach of this Bond on the Prince's side, by his Act, he will have only so to loosen the Union, that it may be next to Dissolution. It seems there is some School-distinction between *breaking* a Bond, and *dissolving* a Bond. But one would think that when the Bond is broken by the Prince, it is dissolved by the Prince ; and no doubt he meant so, but thought not fit to say so much. But perhaps, since he speaks of a Sovereign Prince ; according to his Notion of Sovereignty, he might believe that he may break his Faith or Promise, and yet not break the Law, because his Will is the Law.

P. 7. Sect. 6. However he grants, *That whosoever disobey or resists the publick Order and Government of the Kingdom or State where he lives, he disobey or resists the Ordinance of God.*

The King therefore in a limited Government, where his Will is not a Law, nor can he dispense with Laws, may himself *disobey the publick Order and Government*. And by his breach of those Laws by which he holds his Prerogative, and which are the *Bond of Union* between him and his Subjects, may break or dissolve the Bond ; and then he is no more their King. And thus the People are decently let into the *Sovereignty*, and may make War against him without Rebellion : Nay, he who was their Prince

Prince till the Dissolution of the Bond, resists the *publick Order and Government*, if he goes about to force himself upon them again.

Which are the lucid Intervals, those that bind up the Peoples Hands in all cases, unless Foreign Princes interpose; or those that set them free by the Act and virtual *Cession* of their Kings, we shall know when *Elias*, or someother *Great Prophet* comes. But the Book seems not so much to justify submitting to a *Deliverer*, as to condemn them that have not the patience, in all cases, to wait God's time for raising up some Foreign Prince for their *Deliverer*. Nor have Men reason to flatter themselves with the Notion of a *Deliverer*, which has no Foundation in this Book: and if the Prince be a Deliverer, he must set up himself, or the People must set him up: For all that are of God's setting up, are Conquerors with Right of Conquest.

Again, the People may use the formality of a Choice, but it is no such thing in reality; this Act was not *meerly humane*, but divine.

And the Prince may think this God's immediate Act; and yet though he were a Conqueror, and had the *Right of Conquest* given and adjudged to him (a) by God himself; this might have been by (b) *no more than the permissive Providence of God*.

4. It has appeared already, that he would have what *David* mentions, as belonging to the *Royal Dignity*, to be a Rule in all Ages and Countries. But *David* says of God Almighty, agreeably to what I shall shew of the Donation to *Noah* and his Sons, *The Earth hath he given to the Children of Men*. Which certainly comprehends Dominion as well

The weakness of reasoning, want of Authority, and gross mistakes, in relation to those Rights of Princes which he would infer, from Passages, or Omissions, in Sacred or other Writings.

(a) Vid. p. 18. It is God that does this. 2. He does it judiciously.

(b) P. 53. So it was by those Conquests that God removed Kings, and set up Kings; though we see not that it was any more than by the permissive Providence of God, &c.

as Soil ; and is a Confutation of his Notion of the Patriarchal Power.

David says, *God established a Testimony in Jacob, and appointed a Law in Israel.* Here God was the Law-Maker, not the King ; as every Prince truly a *Sovereign*, according to the Notion which I oppose, is.

It appears that the Law which *David* tells us *God established in Israel*, had particular Clauses limiting the Right of the King. Here at least
 Vid. Deut. 17. ver. 18, 19, &c. was a Law of the true nature of a Contract, superior to the King ; and that the Law of a State or Kingdom : Will they allow the Law of the Kingdom to be thus superior to their *Sovereign* ?

The Rolls of this Law some Jewish *Rabbins* affirm that their Kings destroyed. When therefore our Learned B—— shall produce an authentick Copy of the Law, or that manner of the Jewish Kingdom which *Samuel* wrote in a Book, and laid up before the Lord ;
 1 Sam. 25. his Arguments from the Jewish Polity may deserve Consideration : and yet what the present B—— of *Worcester* says in his *Irenicum* would have its due weight.

Those who plead the obligatory nature of Scripture-Examples, must either produce the Moral Nature of these Examples, or else a Rule binding us to follow these Examples : especially when these Examples are brought to found a new positive Law obliging all Christians.

From hence he proceeds to treat of God's ways of conferring Sovereign Power immediately in the Patriarchs time. This (he says) at first was from God we are sure ; because it was from the beginning of Mankind. The first Men that were born into the World, were all of Adam's Family. And so were all that came after, till some of them went forth, as *Cain* did, to make Families for themselves.

Observe the reasoning here, We are sure it was from God, because it was from the beginning of Mankind.

Does

Does he mean here from the Creation of Man; from the first Multiplying or Infancy of the Subjects; or from their Maturity and years of Discretion.

If the first, then we are sure Civil Policy, or Sovereignty, was not from the Beginning of the World: unless there was a King without a Subject. The second cannot be said to be Subjects of a Civil Policy; and Pufendorf grounds the Paternal Power over them, upon their presum'd Consent. But for the last, it would be no Consequence, that because they were Subjects while they were not capable of Dissenting; therefore they must continue so when they are at years of consent. And if the Sovereignty began when they commenced Men; then there is no Presumption to the contrary; but that it began upon their consent: nor will they be oblig'd to give up their Lives, and the Fruits of their Labours to their Parents, merely for their having exercised that Affection towards them in their Childhood, which Nature both requires, and delights in.

Himself admits, that the Sons, when they come of Age, may chuse whether they will be under their Fathers Government or no; for he places the Power in being Father of the Family; and allows the Sons then to make Families by themselves, and to set up for Independent Princes: This is plain from the instance of *Cain*; he of his own accord left his Fathers Family, and built him a City. Till then, says our B—— they were govern'd by the common Father of *Page 8.*
Mankind.

So that *Cain*, who voluntarily deserted his Fathers Family, by that act of his, set up himself King in the Life-time of his Father.

But this Man was not the Patriarch, had no Divine Nomination or Appointment; nor is it likely he should have for he went out from the presence of the Lord; cast off the Theocrasy, nor had any Appointment that appears from his Father. Either then that City or Civil Society was govern'd popularly; or if he was a Sovereign, it was of the Free Choice of the Society; for otherwile he had no Right at all.

And thus *Cain* bids fairest for being the first Independent Monarch in the World; while *Adam* was under the Theocrasy: and this he must grant in consequence of his own words elsewhere. For, says he, when *Jacob* and all his Family went down into Egypt, there ended their Patriarchial Government. *Page 9.*

It appears therefore, that the *Patriarchal Government* was inferior to the *Monarchical*: And if *Adam* should have gone to dwell in *Cain's City*, his *Patriarchal Government* would have ended.

This matter is so intregued, that I need not enquire.

Vid. Giesfufii 1. Whether there was any occasion for the Rights of Sovereignty in the State of Innocence?

An fuisset futura politia in statu Innocentie? Aff. Quia fuissent futurae Societates in primis duae priores eaeque certo ordine inter se devinctae: nulla tamen fuisset in imperando violentia vel injustitia, sed dulcis harmonia. Hooker's Eccles. Pol. c. 1. f. 26. There were as yet no Civil Societies, no manner of Publick Regiment established.

V. Gen. 9. 3, 5, 6. 2. Whether Power over Life was given by God to Man, till after the Flood?

Targum of Onkelos Polyg. f. 35 3. Whether that Power, when it was given, was an Arbitrary Power; or only to be exercised in the way of Judicature?
Quicumque effuderit sanguinem hominis, per testes ex sententia judicium sanguis ejus fundetur.

Digests, Lib. 1. Tit. 61. 4. Whether the Compilers of the *Digests* were in the Right, when they say, That the Law whereby Children begotten in Lawful Marriage, are in the Power of the Parents; (and that as the Commentator explains it, so far, as that they acquire for their Parents) is, *Jus proprium civium Romanorum*; "a Law peculiar to the People of Rome?"

But to follow our Author to *Noah*. *Noah was the Father of all them that lived after the Flood; and he was their Governor too, till his Children were too many to live in one Country, or under one Government: and then they branched themselves into Nations, among whom the Earth was divided.*

Is this agreeable to Holy Writ? what matter for that, it serves the Hypothesis. Tho the Scripture shews expressly, that God gave the whole Earth, and the Power over Life, to *Noah and his Sons*; and the whole Covenant was between God on one part, and *Noah and his Sons* on the other.

Vid. Gen. 9. 1, 2, 3, 4, 5, 6, 7. Upon which *Mr. Selden* holds, That *Noah and his Sons*, were, by Gods Donation, Lords of all things in common.

Mare Clausum, f. 13. Certe non obscura verum plane communis vestigia occurrunt, in donatione illa numini, qua Noachus tres filios ejus, Scilicet dominis pro indiviso rerum omnium facti sunt.

Either no natural Right can be inferred from this, because it was Gods immediate Free Gift; or it shews that they who are adult,

adult, have Right to share in Dominion with their Parents. Either way it cuts off the *Patriarchal Power*, which he would continue till *Jacob* went into *Egypt*. Pag. 9.

The Scripture says, *Gen. 10. 32. The Nations were divided in the Earth, after the Flood, by the Families of the Sons of Noah: And that the Families were after their Tongues.*

He will have it to be by *Noah's Children*, and speaks of it as if it were a regular branching themselves into Nations; because the Children were too many to live in one Family. He takes no notice of the dispersion upon the Confusion of Tongues; from which time, to God's setting up a King in *Israel*, he elsewhere owns that *perhaps in some Nations it was the Peoples part to chuse who should rule over them.* Page 8. Page 9.

This, if we consider it, will be more than a *perhaps*. Upon the Confusion of Tongues, there were 70, as *Cluverius* holds. *Noah's Children* were not so many as there were different Tongues and Nations. The Heads of Families could not then be distinguished, and the People of every different Tongue must have chosen to themselves Heads, or have so many Commonwealths, or Communities without a Sovereign or Supreme Head.

When (says he) the Fathers, or some of those Nations, made Conquests upon one another, as *Nimrod* did on the Nations about him, who was called a mighty Hunter before the Lord; or when they were otherwise incorporated together. These made the ancient great Monarchies whereof the Assyrian and Egyptian are famous in ancient History.

This his great Hunter before the Lord, or upon the face of the Earth, was an Usurper, and a Tyrant. And (a) Men of greater Authority than himself, instead of before the Lord, render it against the Lord. Bur,

1. The Heads of those Nations, as appears, were not all Patriarchal Heads, but many of them must have been Chosen by the People.

2. He leaves room for a voluntary Incorporation of all Fathers of Families; in which we say consists a Civil Society.

3. Families so incorporated, cannot be dissolved at pleasure of every Individual, as his Patriarchate may.

4. Several Powers and Necessities arise upon such an Incorporation, of Men who have distinct Interests and Properties; which are not within single Families, where the Property is in one.

(a) The Septuagint, *ἡναιον κελῶν*. Vid. Sir W. Ral. f. 158. citing St. Augustin.

5. According to himself, God had given the Power to every one of these Fathers before the Incorporation. And the Sons of these Fathers are admitted at full age to make themselves Families; and so, *ad infinitum*: these are a Community or People. And all these, as Fathers of Families, have equal Patriarchal Power.

If then this Power be Sovereign; when they, or the majority, give up their Power to One, the People give him a Sovereignty over them, which he had no Right to before their Gift. And thus, with God's Permission, the People confer Power. *Quod erat demonstrandum.*

Upon his supposed Expiration of the Patriarchate in Egypt, to the setting up of Kings, he will have it, That God's People were governed first by *Moses*, as a King; and after, by Judges of God's Nomination, or what was equivalent to a Nomination. Which equivalent he soon stretches to a proper Nomination. For, speaking of the Government among

God's chosen People, from the Beginning, to Solomon inclusive, he says, *There was no other standing Government in that Nation which God chose to be his peculiar People, but what was administered by single Persons. And those Persons Title to the Government, was Patriarchal, or by Divine Nomination.*

He seems to have put in the word *standing* for a fence against instances of other Governments set up among God's People within that time. But if the Publick Affairs were regularly administered at any time, under any other known Form of Government, the word *standing* either will not help him, or ought to be struck out. And I desire him to shew the single Person that Govern'd the Commonwealth of Israel; or Headed them upon every Emergency from the time of (a) *Josiah*, to *Othniel*; during which interval, they carried on several Wars with success, in the Name of the People of Israel. I think I need not put him to prove, that the Judges in Israel were Sovereign Princes; or to Answer Mr. Harrington's Commonwealth of Israel; Nor to evade those Texts which, besides the Prophet, seem to place the High-Priest above the Temporal Judge.

When God's Chosen People came to have Kings, he tells us, *God was pleased so far to grant his Peoples request, that they should be an Hereditary Kingdom.*

The request was to have a King, that they might be like all the Nations. But himself says, *In most*

(a) Judges, c. 1. Vid. *Sir W. Ralegh, Hist. f. 350. Tit. Of the Interregnum after Josiah's Death.*

Nations we read of at that time, it was the Peoples part to Chuse who should Rule over them. (pag. 9.)

According therefore to them, who would have the manner of the Kings of other Nations at that time to infer a Right in the Jewish Kings; and the manner of the Jewish Kings, a Right in all others; the request of the Jews was not to have such an *Hereditary Kingdom* as he contends for: but a Kingdom wherein the People might chuse their King.

If by *Hereditary Kingdom*, he means an established Monarchy, where the People were to be Governed by a Succession of Kings, and no other Form of Government: that might be the effect of a Promise made long before. And yet even that related not to all the People of Israel, if it be taken for the Government of one alone over the whole Body of that Nation: For that People was divided into two Kingdoms, however they might have a settled Monarchy; and yet the People might have chosen the first King, and every Successor.

The Scepter shall not depart from Judah.

For the first King of the reigning Line (he says) God would have the chusing of him himself; and accordingly he chose Saul. But himself admits, That the Kingdom was not *Hereditary* to him.

Observe so much of the *Fundamental Law* of the Jewish Kingdom as is now extant, concerning the setting up of a King among them.

When thou shalt say, *I will set a King over me, like as all the Nations that are about me*, Deut. 17. 14.

Thou shalt in any wise set him King over thee whom the Lord thy God shall chuse: one from among thy Brethren shalt thou set King over thee. Thou mayst not set a Stranger over thee which is not thy Brother, ver. 15.

Was this a Law to God himself, or a Promise, That he would never set a Stranger over them? Or was it a Law to them for a Limitation upon their Choice? If it were God's Promise, then he would never have suffer'd them to be in Captivity to any Foreign Prince. If it were a Law to them; then how much soever it might be God's Choice, as being within the Rule which he gave them; yet it was properly the Choice of the People.

Suitably to which the Learned *Grotius* (a) rightly observes, That the Law which forbids a Stranger's being set over the People, is to be understood of a *Voluntary Election*; not of what the People was compelled to do through the necessity of Times.

(a) *Grotius de Jure Belli & Pacis*, lib. 1. cap. 4. sect. 7. *Quod lex vetat alienigenam populo prescribi de voluntaria electione intelligendum est, &c.*

If we observe the Circumstances previous to *Saul's* Accession to the Throne, we shall find, that though God had annointed him by his Prophet; that was not a Nomination made known to the People: *the matter of the Kingdom* was a Secret kept even from his own Relations. And as the People chose to have a King, they proceeded regularly to the Choice of the Man, within the limitation chosen or appointed by God. The method agreed upon was what, in some sense may be called God's Choice, as Men thereby leave the matter to Chance, or to God's permissive or over-ruling Providence, as he shall think fit. Themselves chose how many Lots to use, but indeed could not put in one for a *Stranger*.

God here, as in other Instances, as it were to baffle the Notion of Patriarchical Right, permitted or directed the Lot to fall upon *Saul*, of the House of *Benjamin*; the youngest Son of *Jacob* or *Israel* by *Leab*; and upon one who was not the Head of the Tribe, nor Head of a Family within that Tribe.

Then says our B——, *God made choice of David*. *David having many Sons; among them all, God chose Solomon to continue the Succession in him and his Heirs, as he did till the Babylonish Captivity*. He

by his reference in the Margin, sounds God's Choice upon the Declaration of his Judgment against *Saul*, when *David* is not named; and it could not be known to *Saul*, or to the People, whom God design'd Successor.

Samuel indeed had, in *Saul's* life-time, privately annointed *David*, the youngest Son of *Jesse*; and this was known in *Jesse's* Family. From whence it seems to have been published; but depending upon their Credibility, and meer Human Testimony, was not obligatory to the People: yet they having resolved upon

choosing *David*, then took notice of this, as a Divine appointment; which hindred not their making a *Covenant* with him. There was a Free Choice on their

side, and Stipulation on *David's* with a Free People; or rather a mutual Stipulation and *Contract*.

Our B——'s Notion of an Hereditary Kingdom of Man's setting up, is, That it descends to the next in the Line by Right of Birth; and that this Right cannot be forfeited: Yet it appears in the Sacred Story, that the

Right of Birth which *Adonijah* had, upon his Hypothesis, was forfeited; because he *exalted* himself for King in the life-time of his Father.

1 Kings 1.

Nor did the Crown descend to the next after him: Nor yet does it appear that God immediately interpos'd, but *David* set up *Solomon*, or recommended him to the People; in pursuance of the Promise that he had made to the beautiful Wife of *Uriah*. Ibid. ver. 20.
1 Kings i. 17.

And whereas he will have it, that *Solomon* and his Heirs continued the Succession till the Captivity; it is plain, the Succession was but to two Tribes of Twelve: the other Ten freely chose their King; their Choice was approved of by God, and he never permitted them to return to the House of *David*: the reason of which, according to Sir *Walter Rawleigh*, was, that the Kings of the House of *Israel* used a more temperate Method of Government than the Kings of *Judah* did. Sir W. Rawl. History, f. 437.

The Promise that the Scepter should not depart from that House, till the *Shiloh* should come, was such an Exaltation to that Younger House; that no wonder if it had the like Effect with our Passive Doctrines here. Judah Jacob's fourth Son by Rachel.

But consider the Import of the word [*Heir*] in the Jewish Law, from whence this Writer would derive his Authorities; and it will appear, that the Eldest Son is not according to that, the Patriarch or sole Father of the Family, upon his Fathers Death; two parts of three was the utmost that the eldest Son was entitled to: And this, as Mr. *Selden* observes, was only of what was in the Fathers Possession: what came in right of the Mother, or descended from the Grand-father who survived the Father; descended to all Males equally. Deut. 21. v. 15.
Selden de jure Succes. ad Leges Ebraeorum. f. 24.

How well he has shewn, that all the Kings that God set over his People, were by Divine Nomination; either themselves alone, or they and their Heirs, I leave to his second Thoughts. Page 14.

I have dwelt too long upon his Scripture account of Power; wherefore shall advertise him but of one Mistake more, which he might have rectified by his Skill, in Profane as well as Sacred Story.

I do not, says he, speak all this while of Free States, or Commonwealths; because I do not believe any such Government was known in *David's* time; for as we read of no such Scripture, so it is agreed among the most Learned Hebræan Writers, that the first Government every where was by Kings. Page 16.

Observe the reasoning: there was none in *David's* time, for the first was by Kings; as if notwithstanding there might not have been Commonwealths both then and before.

But

Vid. Harrington's Commonwealth of Israel.

But what thinks he of the Commonwealth of Israel, in the Interval before mentioned; between Joshua and Othniel?

Cluverius epit. Hist. Tit. David.

And what thinks he of the several Free Cities and Islands inhabited by Grecian Colonies in David's time?

I cannot but again return to his gross Mistakes about Conquest.

1. No Consent of the People is requisite to establish the Right.
2. Be the Sovereign in Possession, possessed of the Sovereignty only in the Supreme manner, tho it be not Absolute; yet by the Conquest of him, it was the Duty of all, to whom the Sovereignty was communicated, to give it up; tho they had Power to maintain it, and to restore their former King: for they are become Slaves immediately, by the Conquest over the Prince. And

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Page 57.

He refers to Pufend. de Jure Nat. & Gent. 7, 8, 10.

tho it were in an unjust War, *If the Usurper has no Pretence of Right, no Prescription of time, no consent of the People, but only an unjust Possession*; it is a Duty to obey him, when the Legal King can no more do the Office of a King? Is not this a mighty thorough Settlement?

This surely is not to be found in the Convocation-book which has been so much tossed about; much less I am sure is it in that admirable Author Pufendorf, tho the B— makes a general reference to several Sections in his Book of the Law of Nations, as if it were to be gathered from thence: and yet himself, in the next Page, cites one of those very Sections, which he refers to, in Terms directly contradictory to what he would infer from him: unless a Prince who Con-

Page 58.

Pufend. de jure Nat. & Gentium VII. 7. 3.

quers in an unjust War, has a Right beyond him who Conquers in a just one; for Pufendorf is there express, that after a Prince is overcome in a just War, *till the Subjects consent, the State of War continues: and there is no Obligation; nor Faith; and so no Dominion.*

3. In all cases where God puts down one, and sets up another, this is by Conquest; this Conquest must be by a Foreign Sovereign Prince, and the Conqueror has the Right of War over the Subjects of the dispossessed Prince: From which Rule thus laid down absolutely, there must be these several Exceptions.

1. Himself excepts, and not excepts, the Case of a Deservance.
2. Reason will oblige him to except the case of a limited Monarchy.

3. The case of a Prince's assisting the People to dispossess an Usurper.
 4. All Instances when the People have renounced their Allegiance to one King, and set up another from among themselves: as when *Jeroboam*, *Solomon's* Servant, having headed the People of *Israel*, when they urged for an Assurance of a Regular Government from his Master's Son *Rehoboam*; the Servant was advanced to the Government of Ten of the Tribes, after all *Israel* had renounced the Family of *David*. 1 Kings 11. 26.
1 Kings 12. 15.

Edward the Second among us, being governed by *Garreston*, and the *Spencers*, murdered his Uncle *Thomas Earl of Lancaster*, and numbers of *Great Men*; the People rose against him, Imprisoned him, and a full Representative of the Nation, in a Solemn manner renounced their Allegiance to him: but comforted their *Abdicated King* with the Declaration which they made, that they would suffer his Son *Edw.* 3. to succeed him. Anno 1326.
Vid. The Form
of it. *Knigh-ton*
Col. 2549.

Rich. 2. had been carried on in the like Extravagancies, by the Loyal Men of his time, the Duke of *Ireland*, and other *Minions*; these Men finding a Storm coming upon them, by the just Judgment of the Nation, perswaded the King to give himself up as a Vassal to *France*. The Nation, to secure their publick Regiment, and *Laws*, deposed him, and set up *H.* 4. a Subject of this Kingdom, till they made him King.

Upon these Instances, and more which might be brought, I would ask.

1. If there was a Conquest in any one of them, who was the Conqueror? the Prince constituted by the People, or the People who constituted him?

2. Whether the Prince so constituted, had a Right of War over the People?

3. Whether it was a Duty in all these cases, to expect a Deliverance from some Foreign Sovereign Prince, when perhaps all Neighbour Princes might be Brib'd by Moneys extorted from the Subjects by Oppression and Tyranny; when all might be of the same Religion, or might have the same end in their Government; and would assist each other to Enslave their People.

5. Reason would except all cases, when a Prince comes with Title, or pretends it: and where he declares the occasion of his Arms, or condition of Success. These being used for Inducements to have Right done, or for the Subjects to joyn with, or not oppose him; are implicit Contracts; and either of them is a full bar to farther Claim.

More Exceptions would I ye; but these are enough to set aside his General Rule.

That the shew of reading, and the Positions, are wholly beside the Cushion, not applicable to the Constitution of this Government, nor to the present Debate.

It must be confessed, that in this Book he is not come to his second Head; wherein he undertakes to shew, *That the work of God, in bringing [his] Majesty into this Kingdom, was truly Gods making use of his Prerogative, in putting down one, and setting up another.*

But since his Discourse is with the professed intention of so applying it; surely it is allowable for me to try his Rule for him before hand, if it were only to persuade him to find our other Topicks for the Justification of *[their]* Majesties Right; and proving that *[her Majesty]* is of Gods *[setting up]*, as well as *[his Majesty]*.

This I hold, but am sure I cannot prove it from his Rule, applied either to the Case of an Absolute Conqueror, or to a Deliverer; nor does he so much as pretend to say any thing, to shew that God has made *[her Majesty]* our Sovereign Lady.

The supposed Conquest would barr her Hereditary or other Right; and her Right, whatever it is, will not admit of a Conquest.

But the States of the Kingdom have declared, That King William and Queen Mary, are, and *[of Right]* ought to be our Sovereign *[Lord]* and *[Lady]*.

Tho this Declaration was made in a Convention of the People, by its Representatives, not called by a King, or Queen; yet the Parliament following declared the Acts of that Convention, which became a Parliament, upon acting in Conjunction with *[their Majesties]* to be binding Laws.

And if there be any question of *[her Majesties]* Sovereignty, because the Administration was placed in *[his Majesty]* the Act of this present Parliament impowering *[her Majesty]* to Administer the Government during *[his Majesties]* Absence, has removed that Objection. Neither before that was *[her Majesty]* a Subject: Nor can a King make a Viceroy to act in his Absence, but such an one as must be, a Subject, punishable for Treason against the King.

What shall be thought of them, who Swear Allegiance to *[Two]* and yet believe it to be due to but *[One]*?

This alone were enough to shew, that the Quotations and Positions in this Discourse, are not to the purpose: if it be to justify the Settlement and Submission to it.

The best which can be said of it is, That the Design is not for the Strength or Honour of the Government; but of the Clergy: And to shew, that though many of them were degenerate Sons of the Church, in contributing to the *Revolution*, (for all they are given up,) yet in submitting to it, they have done nothing but what is agreeable to that Doctrine; which (as the *Preface* has it) *has pass'd for the Doctrine of the Church of England, ever since the Reformation.* *Preface.*

But if it has pass'd for the Doctrine of our Church, and is not; it were a labour worthy of a Bishop to undeceive Men.

If it is the Doctrine, why should they not admit that it has been *assented* to only for the sake of Peace? As they say of other Doctrines, which the Church undeniably holds, And why do they continue to maintain it, when it so much disturbs the Peace of this Land, divided only by the means of it?

Farther yet: Our B—— must admit, that being the Church is incorporated into the State; the late Bishops are duly depriv'd by the Law, though not Canonically. Why therefore is not an *Act of Parliament*, which places our present Settlement upon a down-right Contradiction to this Doctrine, enough to set aside a Doctrine which has not so much as a Canon, excepting always the *Laudean*, to colour it? And which has no better Foundation than the *Roman Traditions*.

The Doctrine, perhaps may be suitable to the Canons of 1640. or to the Oath, generally taken by the Clergy, *not to bear Arms against the King, or any one Commissionated by him.*

The Great and Victorious King Edward I. the Prelates, Barons, Bishops, and Commonalty of the Realm, *Stat. 7. E. 1. Rest. f. 25. An. 1279.* above Four hundred Years ago, set up a Land-Mark to Posterity. Which one would have thought they could not have gone beyond; declaring, That the Subjects are to Aid the King, to Defend Force, and Punish Offenders, [according to the Laws and Customs of the Realm.]

But in the ferment of Loyalty upon the Restoration, the Flowers of some, falling in with the prevailing humour, and hopes of Preferment, made Men quit the substance of lawfully Commissionated; though they were convinc'd by the solid Arguments of the Great *Knights*, afterwards Chief Justice of the Common-Pleas, That this was in effect to give up *Magnum Carta*, and all the ancient Liberties purchased at the expense of so much Blood and Treasure. It was therefore yielded by the Chief Advocate for a Commission,

without the incumbrance of *lawful*, that it ought to be im-
plied.

But however, it past as a Snare, at a time when it was well known,
that if *Charles II.* was not a *Papist*, his Brother *James* was.

But as to the *Laudæan* Canons of 1640. it was the same Year
unanimously resolv'd by the *House of Commons*; That
*they do contain in them Matters contrary to the King's
Prerogative, the fundamental Laws and Statutes of the
Realm, to the Right of Parliament, to the Property and
Liberty of the Subject, and Matters tending to Sedition,
and of dangerous Consequence.*

*Rush. Hist. Col.
2d Vol. Resolv'd,
Decem. 17. 1640.
Nullo contradi-
cente.*

*Stat. 13. Car. 1.
c. 1. Not to con-
firm the Canons
made An. 1640.*

Nay, that very Parliament in which the *High
Church*, or *Laudæan* Party, so far prevaild, as to
pass the cramping Oath, put a particular Mark of
Reprobation upon the Canons of 1640.

And the Oath is now repeal'd: so that if it ought to have been
taken strictly, the Constitution of the Government is now freed
from the Invasion.

But there is a Notion which makes specious Pretences to be part
of the Constitution. Which is, That this Govern-
ment has been made *Hereditary* in such a sence, that
a Right to it is given, by God alone, to the Person
who stands next, by reason of *Birth*.

This imposes upon our B—— to believe a necessity to maintain
that this *Divine Right* has been set aside by a *Divine Judgment*;
and that our present Settlement results from the Event of a just
War made by a *Sovereign Prince*: Or, to go in the path of the

*Discourse, p. 47.
An excellent
Book, &c.*

Answer to *Ashton's Paper*, to which our B——
gives his Approbation, or *Episcopal Confirmation*,
That *the Right to the Government is Conquest*.

*Answer to Ashr.
pag. 23.*

His Notion of *Hereditary*, as it has appear'd, has
no Foundation from among the *Jews*; from whose
Polity he would fetch Examples obligatory to us.

*Pref. to Fov.
p. 11.*

Dr. Hicks admits, That *the words Heir, Heredi-
tary, &c. never in the Latin or Greek Authors, signifie
in that especial manner*, which he presumes that
they do here.

*Vid. The Funda-
mental Constitu-
tion of the Eng-
lish Government,
proving Their Majesties our Lawful and Rightful King, and Queen.*

And it has been shewn, and may appear more
fully, That no such Notion has been anciently
receiv'd in our Law.

Our B—— says, indeed, from *Cerdic, King of the West Saxons*, the Descent of our Royal Family is unquestionable.

If he means, that the Descent of the Crown has always from that time gone in a right Line, there is no colour for the Assertion. Nay, it will be difficult to shew the Right of the Family, acknowledg'd and observ'd before *Ina's* time.

If he means that the present Royal Family can make out their Pedigree from *Cerdic*; what is that to the inalienable Right of Inheritance in the next of the Line?

If by *Hereditary*, he meant no more than the Inheritance of a Family; such an Inheritance as may solve all the Breaches, or rather Windings in the Royal Line, from *Ina's* time to this day; we might agree, by putting in *Ina* at the Head of the Right of the Family.

But I challenge him to shew, that the next Heir of the Family has always succeeded, even from *Ina's* time, or been accounted to have had Right to succeed: or, which is us'd as a Supplement, that the *Nomination* of the *Rightful Possessor* has been always had or thought necessary, where he that succeeded was not the next upon the Line.

But to shew to how little purpose he has laboured, I must mind him of the Clause in *S. Edward's Laws*, the Receiving and Keeping which is part of the *Coronation Oath*; by which if those Laws are wilfully broken by the King, *Nec Nomen Regis in eo constabit*. "Not so much as the Name of King shall abide in him."

Suitable to this is that Passage in a Speech made by *K. James I.* to his Parliament; wherein he tells them, "Every King in a settled Kingdom is bound to observe the *Paction*, made to his People by his Laws in framing his Government agreeable there- to. And that a King governing in a settled King-

Cited pag. 23.

dom, *leaves to be a King*, and degenerates into a Tyrant, as soon as he leaves off Governing according to his Laws. In which case the King's Conscience may speak to him, as the poor Widow said to *Philip of Macedon*, Either Govern according to your Law, *Aut ne Rex sis*, "Or be no King."

Na. *Paction*, or Contract.

All this our B—— himself refers to in his Margin; but tells us in such case, *Kings are not to be deposed by the People*: nor, indeed; is there need of it; for it appears that they by their own act; cease to be Kings; and therein *depose* themselves.

If there were any doubt upon so much of the Speech as we now have; there was none in the words then spoken to the *Parliament*; at least

least there is none in that Sense in which they took his Speech, and he submitted to.

For they, to keep him to his word, and handfomely to admonish all future Kings, of the Consequence of breaking *Fundamental Laws*, wisely repeat the Substance of his Speech in the Preamble to an Act of *Parliament*: wherein they say, *His Majesty hath vouchsafed to express many ways, how far it is, and ever shall be, from his Royal and Sincere Care and Affection to the Subjects of England, to alter or innovate the Fundamental and Ancient Laws, Privileges, and Good Customs of this Kingdom; whereby not only his Regal Authority, but the Peoples Security of Lands, Livings and Privileges, both in General and Particular are Preserved and Maintained. And by the Abolishing or Alteration of the which, it is impossible but that present Confusion will fall upon the whole State and Frame of this Kingdom.*

Here is, in effect, the Judgment of *Parliament*, as well as Confession from the King, of the Consequence of a King's altering, or innovating the *Fundamental Laws*.

After this there will be no need to refer to *Pufendorf*, whom the B—— himself cites; to *Grotius*, *Bishop Bilson*, and even *Falkner*, besides many more.

I need only ask him, whether he, who assumes a *Legislative Power*, in dispenſing with *Laws*, would not, cease to be King of England? or by altering a *Fundamental Law*, dissolve the *State* of this Kingdom?

But this I find needful to mind him of, which I was in hopes he would have attended to; that the *Parliament* has declared, that the *Throne* was vacant upon the late King's Breach of the *Original Contract*, and the *Abdication*: whether one alone were enough to make a *Vacancy*, it is not needful to determine, for *Vindication* of the *Settlement*; both at least were: And if *King James* ceased to be King, upon the Breach of the *Contract*, this was a full Justification of them, who invired over *His Majesty*, and were at his first Landing, ready to Fight on his side against the late King. However if there were a *Vacancy*, upon either, or both of the *Grounds*, then the *Kingdom* or *Dominion* was not taken from a *Sovereign Prince* against his Will; but himself, by his own Act, dissolved the *Bond of Union* between Prince and People. Vid. p. 66.

Now here was no King of Gods setting up after the *Vacancy*, according to the B——'s Notion; for upon the *Abdication*, the Government did not, thereby, come immediately to their present *Majesties*, but

but there was a *Vacancy*, till [their Majesties] accepted the Crown : and the *Parliament* provided, that all Indictments for Misdemeanors in the Interval, should be laid *Contra pacem Regni*, " against the Peace of the Kingdom or People.

Vid. The Act
reviving Law
Proceedings.

During that time it seems the Power was lodged in the *People*; how then came it out of them, but by the Free Consents of all that were not infected with such Principles as are contrary to the *Settlement*?

I would desire him, therefore, when he treats of Politicks again, not to fill his Margin with Quotations, which are not in the least to that case to which he would apply them. And especially I would advise him, as he values what he holds forth for the Doctrine of the Church, not to put Men in mind of reading that admirable *Author Pufendorf*; whose Works, if they were translated into *English*, would convince all, not obstinate against Conviction; that this *Revolution and Settlement* (which we say, was begun and finished with full *Legal Warrant*) is according to *Natural Equity*; and has the Suffrages of the best Writers of *Politicks*.

And let me intreat him, not to encourage or raise Scruples against complying with this Government; by yielding those Grounds, upon which Men may Scruple, till they find an Oracle less doubtful, a more *sure word of Prophecie*, than Bishop *Overal's Convocation-book*, or this *Discourse of God's Ways of Disposing of Kingdoms*.

F I N I S.